

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF WISCONSIN

JENNIFER A. ROYCE
5332 – 68th Street
Kenosha, Wisconsin 53142

Case No. _____

Plaintiff,

vs.

WHEATON FRANCISCAN HEALTHCARE –
ALL SAINTS, INC.
c/o Elizabeth Cliffe Kucharski
200 West River Woods Parkway
Milwaukee, Wisconsin 53212

Defendant.

COMPLAINT

The Plaintiff, by her attorneys, Hawks Quindel, S.C., by William E. Parsons and David C. Zoeller, for her Complaint against the Defendant, Wheaton Franciscan Healthcare – All Saints, Inc., states as follows:

PRELIMINARY STATEMENT

Jennifer Royce has been employed by Wheaton Franciscan Healthcare – All Saints, Inc. in a clinical support services (“CSA”) capacity during the past four years. During this period, she has been instructed not to record hours worked over forty (40) a week, and to work “off of the clock” during those hours to avoid overtime payment. Royce was regularly suffered and permitted, and often required, to work “off the clock” overtime hours. The Plaintiff seeks payment of her overtime wages at

one and one half times her regular rate, liquidated damages, payment of attorney's fees and costs, and a finding that Wheaton Franciscan Healthcare – All Saints, Inc. has willfully violated the Fair Labor Standards Act pursuant to 29 U.S.C. § 216(b).

JURISDICTION AND VENUE

1. The Court has jurisdiction over this action pursuant to 28 U.S.C. § 1331, in that the Plaintiff's claims arise under the Fair Labor Standards Act, 29 U.S.C. § 201, et seq. ("FLSA").

2. Venue is proper in the Eastern District of Wisconsin under 28 U.S.C. § 1391 because Defendant operates a facility in this district and because a substantial part of the events or omissions giving rise to Plaintiff's claims occurred in this district.

PARTIES

3. Plaintiff Jennifer Royce ("Royce") is an adult resident of the State of Wisconsin, residing at 5332 – 68th Street, Kenosha, Wisconsin. At all times material to this matter, Royce was an employee of Defendant as defined by 23 U.S.C. § 203(e). Royce's signed consent form is attached to this complaint as Exhibit A.

4. Defendant Wheaton Franciscan Healthcare – All Saints, Inc. ("Wheaton Franciscan") is a Wisconsin non-stock corporation whose principal office is located at 3801 Spring Street, Racine, Wisconsin. Wheaton Franciscan's

registered agent for service is Elizabeth Cliffe Kucharski, 200 West River Woods Parkway, Milwaukee, Wisconsin.

5. Wheaton Franciscan is engaged in the operation of a hospital, as defined by 29 U.S.C. § 203(s)(1)(B).

6. Wheaton Franciscan is an “employer” within the meaning of the FLSA, 29 U.S.C. § 203(d), and is an enterprise engaged in commerce within the meaning of 29 U.S.C. § 203(s)(1).

ALLEGATIONS

7. During the three (3) years preceding the filing of this Complaint, Wheaton Franciscan employed Royce in a clinical support services (“CSA”) capacity.

8. During her employment, Royce was instructed by her supervisors not to record any work she performed over forty (40) hours a week.

9. Royce was suffered and permitted, and often required, to work hours over forty (40) a week.

10. Royce was paid no wages for the hours she worked over forty (40) which she was instructed not to record.

FIRST CAUSE OF ACTION FAILURE TO PAY OVERTIME WAGES IN VIOLATION OF THE FLSA

11. Paragraphs 1-10 of this Complaint are re-alleged as though set forth here in full.

12. The FLSA, 29 U.S.C. § 207, requires each covered employer to compensate all non-exempt employees at a rate of one and one-half times the regular rate of pay for work performed in excess of forty (40) hours per workweek.

13. During her employment with Wheaton Franciscan, and within the applicable statute of limitations, Royce regularly worked in excess of forty (40) hours per week without overtime compensation.

14. At no time during the applicable statutory period was Royce exempt from overtime pay under any of the FLSA exemptions.

15. Wheaton Franciscan's practices violate the provisions of the FLSA, 29 U.S.C. § 201, et seq., including, but not limited to, 29 U.S.C. § 207. As a result of these unlawful practices, Royce has suffered a wage loss.

16. Wheaton Franciscan knew or showed reckless disregard for the fact that it failed to pay Royce overtime compensation in violation of the FLSA.

WHEREFORE, the Plaintiff demands judgment against Defendant, awarding her:

A. The overtime compensation owed to Royce under 29 U.S.C. § 207 for the three (3) year time period prior to the commencement of this action;

B. Liquidated damages in an amount equal to the amount awarded to Royce as overtime compensation as provided in 29 U.S.C. § 216(b);

C. All attorney's fees incurred by Plaintiff in prosecuting this action, and the costs of this action, as provided in 29 U.S.C. § 216(b); and

D. Such other legal or equitable relief as this Court deems just and necessary to vindicate Royce's rights under the Fair Labor Standards Act.

DEMAND FOR JURY TRIAL

Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, the Plaintiff demands a trial by jury.

Dated: September 21, 2010

HAWKS QUINDEL, S.C.
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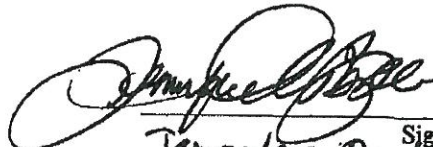
Madison, Wisconsin 53701-2155

Telephone: 608/257-0040

Facsimile: 608/256-0236

PLAINTIFF CONSENT FORM

I hereby consent to make a claim against Wheaton Franciscan Healthcare for overtime wage pay. During the past three (3) years there were weeks that I worked over forty (40) hours in a Clinical Support Services position and did not receive overtime compensation.

 9/8/10

Jennifer A. Royce

Print Name

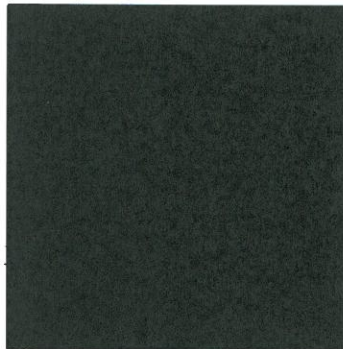
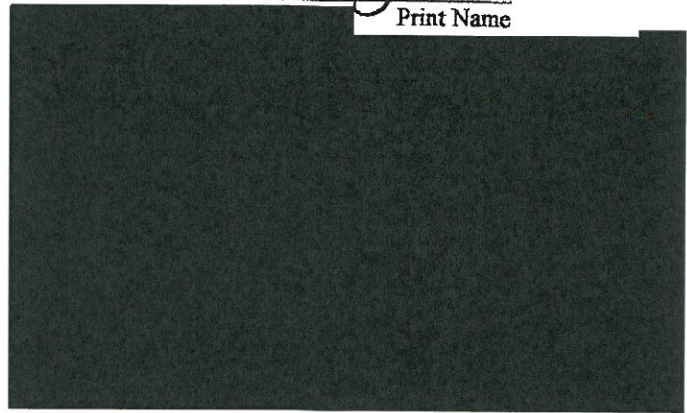


EXHIBIT A TO COMPLAINT
Signed Consent Form